

2/1/22

In the Circuit Court of the State of Oregon

For the County of Marion

LEE TAYLOR, an Individual,
Plaintiff,

v.

HOME DEPOT U.S.A, INC., a foreign corporation, and
WERNER CO., a foreign corporation,

Defendants.

Case No. 21CV47760

SUMMONS

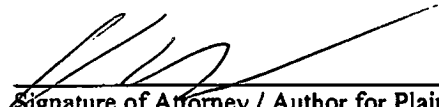
TO: CT Corporation System, Registered Agent for Werner Co., 780 Commercial Street, SE, Suite 100, Salem, OR 97301

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.


Signature of Attorney / Author for Plaintiff
Andrew M. Schlesinger OSB 065008
235 Front Street, SE, Suite 200
Salem, OR 97301
503-363-3443

Trial Attorney if other than above

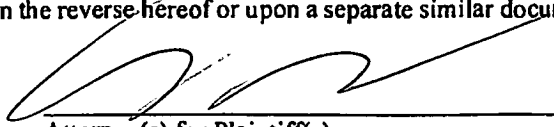
Bar No.

STATE OF OREGON:)
County of Marion) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


ATTORNEY OF RECORD FOR PLAINTIFF(S)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.


Attorney(s) for Plaintiff(s)

LEE TAYLOR,
Plaintiff,
v.

Case No. 21CV47760

PROOF OF SERVICE

HOME DEPOT U.S.A, INC., a foreign corporation, and WERNER CO., a
foreign corporation,

Defendants.

STATE OF _____, County of _____) ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of the summons and the complaint mentioned therein, certified to be such by the same attorney for the plaintiff, as follows:

Personal Service Upon Individual(s)

Upon _____, by delivering such true copy to
_____, personally and in person,
at _____, on _____, at _____ o'clock _____ M.
Upon _____, by delivering such true copy to
_____, personally and in person,
at _____, on _____, at _____ o'clock _____ M.

Substituted Service Upon Individual(s)*

Upon _____, by delivering such true copy at his/her dwelling house
or usual place of abode, to-wit: _____,
to _____, who is a person 14 years
of age or older and a member of the household of the person served on _____, at _____ o'clock _____ M.
Upon _____, by delivering such true copy at his/her dwelling house
or usual place of abode, to-wit: _____,
to _____, who is a person 14 years
of age or older and a member of the household of the person served on _____, at _____ o'clock _____ M.

Service on Corporations, Limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by
(NAME OF CORPORATION, LIMITED PARTNERSHIP, ETC.)
(a) delivering such true copy, personally and in person, to _____ who is a/the
_____, (Specify registered agent, officer (by title), director, general partner, managing agent, etc.) thereof; OR
(b) leaving such true copy with _____, the person who is apparently in charge of the
office of _____, who is a/the
(Specify registered agent, officer (by title), director, general partner, managing agent, etc.) thereof:

at _____, on _____, at _____ o'clock _____ M.
Dated _____

By _____ Sheriff
_____ Deputy

I further certify that I am a competent person 18 years of age or older and a
resident of the state of service or the State of Oregon, and that I am not a
party to nor an officer, director or employee of, nor attorney for any party,
corporate or otherwise; that the person, firm or corporation served by me is
the identical person, firm or corporation named in the action.
Dated _____

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

CITY STATE ZIP PHONE

The signature lines on the left should be used only by an Oregon county sheriff or deputy. All other servers should complete the certification on the right. The Proof of Service above contains most, but not all, of the permissible methods of service. For example, this form does not include proof of service upon a minor or incompetent person. See ORCP 7 for permissible service methods with respect to particular parties.

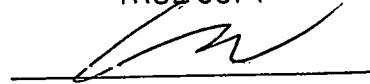
*Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, a true copy of the summons and the complaint to the defendant at defendant's dwelling house or usual place of abode, together with a statement of the date, time and place at which such service was made. Use S-N Form No. 1149, Notice of Substituted of Office Service, or the equivalent.

**Service by mail may be made when required or allowed by ORCP 7 or by statute, except as otherwise permitted. If the summons and complaint are mailed, this certification may be made either by the person completing the mailing or by the attorney for any party, stating the circumstances of mailing and including the return receipt as an attachment. An attorney completing the mailing should delete ", nor attorney for" from the last paragraph of this document. Failure to serve a summons in accordance with ORCP 7 and other applicable rules and statutes may affect or nullify the validity of such service.

***Where service upon a tenant of a mail agent is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, true copies of the summons and the complaint to the defendant(s) at the address at which the mail agent receives mail for the defendant(s) and to any other mailing address of the defendant(s) then known to the plaintiff, together with a statement of the date, time, and place at which delivery was made.

EXHIBIT A
Page 2 of 8

THIS IS A CERTIFIED
TRUE COPY



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

LEE TAYLOR,

Plaintiff,

vs.

HOME DEPOT U.S.A., INC., a foreign
corporation, and WERNER CO., a foreign
corporation,

Defendants.

CASE NO. 21CV47760

**COMPLAINT FOR PERSONAL
INJURIES AND REQUEST FOR JURY
TRIAL**

(Claim not subject to mandatory arbitration)

Amount prayed for: \$425,000

Filing Fee of \$594.00
pursuant to ORS 21.160(1)(c)

Plaintiff alleges the following based on evidence that could be obtained prior to filing this cause of action. Additional evidence in the possession of Defendant and/or third parties will be obtained after suit is filed as permitted under the Oregon Rules of Civil Procedure; and these allegations may be amended as new information is obtained.

Plaintiff alleges as follows:

1.

At all times alleged herein, Defendant Home Depot U.S.A., Inc., ("Home Depot") was and is a Georgia corporation engaged in the sale, distribution, maintenance, and repair of various ladders used in construction including the thirty-two (32) foot extension ladder manufactured by Werner Co. The Home Depot sells and distributes its products throughout the State of Oregon, including in Multnomah County, Oregon.

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1 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

The Gatti Law Firm
235 Front St SE #200, Salem, OR 97301
(503) 363-3443

EXHIBIT A
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2.

At all times alleged herein, Defendant Werner Co., ("Werner") was and is an Illinois corporation engaged in the sale, distribution, maintenance, and repair of various ladders used in construction including the thirty-two (32) foot extension ladder manufactured sold by Home Depot. Werner sells and distributes its products throughout the State of Oregon, including in Multnomah County, Oregon.

3.

At all times alleged herein Plaintiff was an employee of Chimcare. Chimcare is a chimney inspection and repair company. Plaintiff was employed as an inspector/estimator at all relevant times.

4.

Plaintiff purchased a thirty-two (32) foot extension ladder from the Sequoia Parkway Home Depot location in Tigard, Oregon on or about November 19, 2019. This ladder was constructed out of aluminum and utilized a rope cord.

5.

On or about December 21, 2019, Plaintiff was providing services to a customer in North Plains, Oregon. The house was two stories in height. Plaintiff extended the ladder to near full height to reach the roof near the chimney.

6.

After completing his inspection at the residence, plaintiff pulled on the rope to release the lock holding the ladder extended. As he pulled on the rope it broke causing the upper portion of the ladder to fall. In response, plaintiff attempted to get out of the way, twisting to the ground. During his escape attempt he fell and twisted his left knee. As a result of the fall plaintiff suffered injury to his left knee including, but not limited to a sprain and/or tear of one or more ligaments in his left knee.

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2 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

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1 7.

2 As a result of the defective design, manufacture and defective warnings of the ladder,
3 and/or the negligence of Defendants, as alleged below, Plaintiff suffered the following injuries:

- 4 a) Tear of left ACL
5 b) Left knee Sprain

6 Plaintiff's injuries are permanent and degenerative in nature. Some of Plaintiff's injuries
7 may constitute an aggravation of a prior infirm condition. Plaintiff's injuries resulted in need for
8 surgery on his left knee. Plaintiff further suffered a loss of use of his left hand, pain and suffering,
9 shock, mental anguish, emotional distress, and loss of enjoyment of life, all of which have caused
10 Plaintiff non-economic damages in an amount determined to be fair by a jury, but not to exceed
11 \$250,000.00, said amount to be made more certain at the time of trial.

12 8.

13 As a result of the injuries alleged in Paragraph 7, Plaintiff was unable to perform the
14 activities of gainful employment, and therefore incurred economic damages in the form of lost
15 wages, in an amount determined to be fair by a jury, but not to exceed \$100,000.00, said amount
16 to be made more certain at the time of trial.

17 9.

18 As a result of the injuries alleged in Paragraph 7, Plaintiff incurred expenses for the
19 reasonable and necessary medical treatment of the injuries alleged above. Plaintiff, therefore, has
20 suffered economic damages in form of past medical expenses, in an amount determined to be fair
21 by a jury, but not to exceed \$25,000.00, said amount to be made more certain at the time of trail.

22 10.

23 As a result of the injuries alleged in Paragraph 7 Plaintiff will incur future medical expenses
24 for the reasonable and necessary medical treatment for said injuries. Plaintiff, therefore, has
25 suffered economic damages in the form of future medical expenses, in an amount to be determined
26

3 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

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1 to be fair by a jury, but not to exceed the sum of \$50,000.00, said amount to be made more certain
2 at the time of trial.

3 **FIRST CLAIM FOR RELIEF – STRICT PRODUCTS LIABILITY**

4 11.

5 Plaintiff incorporates paragraphs 1-10 above.

6 12.

7 At all times alleged herein, Defendants were in the business of selling ladders such as the
8 thirty-two foot extension ladder at issue in this matter. Defendants purposely placed the ladder
9 into the stream of commerce, including in Multnomah County, Oregon.

10 13.

11 At all times alleged herein, Defendant Werner was in the business of manufacturing and
12 selling of the ladder. Defendant Werner purposed placed the ladder into the stream of
13 commerce, including in Multnomah County, Oregon.

14 14.

15 At all times alleged herein, the ladder designed, manufactured and/or sold by Home Depot
16 and/or Werner and used by plaintiff was sold or leased in a defective condition, in one or more of
17 the following particulars, which rendered it unforeseeably dangerous to foreseeable users:

- 18 a) In failing to manufacture the ladder in a manner that was fit for its intended purpose;
19 b) In failing to design, manufacture, distribute and/or sell the ladder with a rope pulley system
20 that was capable of safely fulfilling its purpose of extending, locking and collapsing the
21 extendable portion of the ladder without failure.

22 15.

23 The defects alleged existed at the time Werner and Home Depot designed, manufactured,
24 distributed and/or sold the ladder.

25 ///
26

4 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

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16.

One or more of the defects alleged in Paragraph 14 was a significant contributing factor in causing Plaintiff's injuries alleged in Paragraphs 7.

SECOND CLAIM FOR RELIEF – NEGLIGENCE

17.

Plaintiff incorporates Paragraphs 1-10 above.

18.

Defendant Home Depot was negligent in one or more of the following particulars:

- a) In failing to manufacture the ladder in a manner that was fit for its intended purpose;
- b) In failing to design, manufacture, distribute and/or sell the ladder with a rope pulley system that was capable of safely fulfilling its purpose of extending, locking and collapsing the extendable portion of the ladder without failure.

19.

As a result of Defendants negligence as alleged in Paragraph 17, Plaintiff suffered the injuries and damages alleged in Paragraphs 7-10.

AS TO ALL OF PLAINTIFF'S CLAIMS

20.

Plaintiff hereby requests a jury trial.

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

1. For non-economic damages in an amount determined to be fair by a jury, but not to exceed \$250,000.00, said amount to be made more certain at the time of trial;
2. For economic damages in the form of lost past wages, in an amount determined to be fair by a jury, but not to exceed \$100,000.00, said amount to be made more certain at the time of trial;

5 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

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3. For economic damages in the form of prior medical expenses, in an amount determined to be fair by a jury, but not to exceed \$25,000.00, said amount to be made more certain at the time of trial;
4. For economic damages in the form of future medical expenses, in an amount determined to be fair by a jury, but not to exceed \$50,000.00, said amount to be made more certain at the time of trial; and
5. For Plaintiff's costs and disbursements incurred herein.

Dated this 15th day of December, 2021

THE GATTI LAW FIRM

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Of Attorneys for Plaintiff

6 – COMPLAINT FOR PERSONAL INJURIES AND REQUEST FOR JURY TRIAL

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